



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

Assembly Bill 580

Assembly Committee on Forestry

Department of Natural Resources Testimony
Kathryn J. Nelson, Chief, Forest Tax Section
Division of Forestry
November 18, 2009

Mr. Chairman and Committee Members:

Good morning. My name is Kathy Nelson and I am the Chief of the Forest Tax Section within the Bureau of Forest Management in the Department of Natural Resources. I appreciate this opportunity to appear before you to discuss AB 580.

The Department of Natural Resources (DNR) supports AB 580 because it will streamline and provide efficiencies in a program that is often looked at as bureaucratic and difficult to work through. The changes will benefit landowners and foresters alike by simplifying the MFL program so that it is easier to explain, enter and enforce. These changes will also have an unexpected side effect in that there will be some time savings by staff, allowing for additional unmet high priority work to be done. AB 580 is a significant piece of legislation because it continues to encourage landowners to sustainably manage their properties and to keep as much land in large, working forests to benefit Wisconsin's forest industries.

I'd like to highlight some of the provisions of this bill to show how this legislation will benefit the explanation, entry and enforcement of the MFL program.

1. This bill will eliminate the two application deadlines of July 1 and May 15 and replace it with one deadline of June 1. This change will do the most to streamline the application process, eliminate confusion and allow additional time savings by department staff. It was in 2004 that the legislature created the July 1 deadline in response to record numbers of MFL applications, which was a full 18 months prior to entry into the program. A second application deadline was also created for landowners who worked through a certified plan writer (CPW) to prepare a complete management plan packet.

The certified plan writer program has been more successful than the department could have imagined. The referral system that the department developed has allowed most landowners to contract with CPWs for plan writing services. In fact, DNR foresters have written very few plans the past few years. DNR's role is now in plan review and quality control.

Because of the success of the CPW program, more and more landowners are choosing to hire a CPW directly and apply for the May 15 application deadline. This deadline provides landowners with more flexibility in determining the acreage and location of lands to be entered. The quality of work submitted by CPWs has improved as they become more familiar with the requirements of the MFL program.

With this in mind, the July 1 application deadline is no longer needed and we can create a new deadline that allows for a shorter application period.

Currently large landowners have an application deadline of March 31. To streamline the MFL program further the department would ask this bill be amended so that this deadline also becomes June 1.

2. The bill will create the ability of the Department of Natural Resources and the Department of Revenue to calculate withdrawal tax estimates to provide landowners with as much information as possible for making land management and business decisions. Withdrawal tax payments have increased dramatically the past few years as forested lands are being reassessed. Landowners who are contemplating withdrawing their lands from the MFL program because they are not interested in completing mandatory practices have requested to re-enter the program after seeing the size of their withdrawal tax bill. These people have stated that, had they known the actual amount of withdrawal tax, they would have made different decisions and followed through with their mandatory practices. Unfortunately, the DNR is not allowed to reinstate lands that are withdrawn except with a new application and full payment of the withdrawal tax bill.

DNR foresters have tried to estimate withdrawal tax bills for landowners with varying success. At times it is difficult to find the assessed values and the tax rates that will be used by the Department of Revenue. After DNR miscalculated several large withdrawal tax bills for landowners, the policy to not estimate withdrawal tax bills for landowners was reissued in August 2007.

The Department of Revenue works with the DNR to calculate actual withdrawal tax bills and is in the best position to work with us on withdrawal tax estimates. AB 580 provides for a fee to be submitted with the withdrawal tax estimate request payable to DOR. The fee is needed to help offset the costs to calculate the tax estimate and insure that only those individuals who are seriously interested in a potential withdrawal will be requesting an estimate.

It is hoped that by providing accurate withdrawal tax estimates for landowners more people will make informed decisions on carrying out mandatory practices or withdrawing from the MFL program. Providing withdrawal tax estimates is a service that has not been provided by the DNR or DOR in the past. To provide better customer service to landowners this service is needed.

3. The bill will require that stumpage values be determined outside of the administrative rule making process. NR 46 is the administrative code that contains the chart of stumpage values used to determine the yield tax, severance tax and termination tax payments landowners make when timber is harvested from their tax law lands or when they choose not to re-enroll their lands into MFL after their FCL expires. DNR has received many complaints about the rates used in NR 46, especially at times when markets fall. NR 46 stumpage rates are calculated using a 3-year weighted average that is verified through public hearing. These rates are determined strictly for the purposes of landowners paying some of their deferred property tax at a time when they harvest timber from their MFL and FCL lands.

The department continues to hear complaints that the development of NR 46 stumpage values is a slow process and that the rates that are developed after the public hearing in April is not effective for a full six (6) months later. People believe that this delay is fine when markets are stable or rising, yet when markets are falling it is seen as the government being unresponsive to market conditions.

To have stumpage values as current as possible, it is necessary to have those values used as quickly as possible after collecting and verifying them. To that end AB 580 is proposing to allow the department to determine stumpage values through handbook policy and not through the administrative rule process. Stumpage values collected in 2009 could be proofed and used in 2010, allowing for the stumpage values to reflect markets closer than they would if used in 2011.

This provision of AB 580 will reduce the complaints received by the Division of Forestry and allow for greater customer satisfaction.

4. There are other language and administrative efficiencies in this bill that will make the MFL program easier to explain, enter and enforce. The change of language from "petition" to "application" may appear to be cosmetic, but these words have been shown to cause confusion for landowners. Foresters spend a lot of time explaining the word petition to landowners. We should use terms common to landowners if we want to encourage continued participation in the MFL program and encourage continued sound forestry management of private lands.
5. Clarifying that management plans may be amended in order to practice sound forestry is the crux of the intent of the MFL program and will help landowners to understand that the management plan is a flexible tool to guide sound forestry practices on their lands. Management plans are written for 25 or 50 periods. Many times stand conditions or scientific knowledge changes during this time frame. If plan amendments were not routinely done the department and landowners would be practicing old science and the management of our natural resources would not improve.

Changes to management plans are always needed. When mandatory practices come due DNR and cooperating foresters re-evaluate a landowner's forest to determine the best practices to implement. Foresters base this decision on the new stand conditions, new landowner goals, current science and current program requirements. This process results in the best management for the land that benefits the private landowner and the public.

Historically roughly 50% of all management plans are amended by the time the practice is due. While most landowners readily amend plans when working with their foresters, the language change will make it clear that sound forestry must be practiced on MFL lands and that plans will be changed to reflect current stand conditions and current silvicultural practices.

6. Providing that a penalty be assessed against a person who fails to file a cutting report is another enforcement tool that the department can use to keep landowners in compliance with the MFL program. Cutting reports are a required part of the MFL program because these reports are used to generate the invoices for landowners to pay their yield tax to the local municipality and county. Landowners who harvest trees and fail to file their cutting reports have historically been withdrawn from the MFL program. Withdrawal is the ultimate penalty for not following through with the provisions of the MFL program. Having another tool available to gain compliance is better than immediately needing to go to withdrawal of lands from the program.
7. Other changes in AB 580 will allow for staff to process transfers and withdrawals of MFL and FCL in similar manners and do not have a great impact on external customers and certified plan writers. These changes will allow DNR to continue streamlining the program and provide

for efficiencies in staff time and in making it easier to explain, enter and enforce the MFL program.

Again, the department supports AB 580 and looks forward to the efficiencies that will be created by this bill. I appreciate this opportunity to speak before you today and would be glad to answer any questions you might have.